

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**PLAINTIFF'S NOTICE OF AND CLAIM OF APPEAL SUBJECT TO
PENDING RULE 59(e) MOTION**

Subject to the ruling of the court on the Plaintiff's Motion for Rule 59(e) Relief, filed on May 10, 2006, notice is hereby given by Kenneth M. Kansky, Plaintiff in the above named action hereby appealing to the United States Court of Appeals For The First Circuit, from the Memorandum and Order and from the Final Judgment denying the Plaintiff his ERISA long-term and related benefits, which Memorandum and Order and Final Judgment were dated May 1, 2006 and docketed May 2, 2006.

Dated: June 1, 2006

The Plaintiff Kenneth M. Kansky,
By His Attorney:

s/Bernard A. Kansky, Esq.
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CERTIFICATE OF SERVICE

I, the undersigned counsel for the Plaintiff, Kenneth M. Kansky, do hereby certify that a copy of the foregoing Notice of and Claim of Appeal was served upon opposing counsel, Stephen D. Rosenberg, Esq., The McCormack Firm, LLC, One International Place 7th Floor, Boston, MA 02110 (617) 951-2929/ Fax (617) 951-2672, by postage prepaid first class United States Mail and/or by Fax and/or by Electronic Filing on the month , day and year set forth below.

Dated: June 1, 2006

s/Bernard A. Kansky, Esq.
BERNARD A. KANSKY, ESQ.
AS ATTORNEY FOR KENNETH
M. KANSKY, PLAINTIFF